

June 27, 2013

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Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Notice of Ex Parte – CG Docket Nos. 03-123 and 10-51**
Purple Communications, Inc.

Dear Ms. Dortch:

On June 27, 2013, John Goodman, Chief Legal Officer for Purple Communications, Inc. (“Purple”), and the undersigned, Purple’s outside counsel, participated in a conference call with the following staff from the Office of the Managing Director: Dana Shaffer, David Schmidt, Andrew Mulitz, and Megan Harnett. We also had a separate conversation with Nicholas Degani, Legal Advisor to Commissioner Ajit Pai. The discussion focused on IP Relay rates.

We emphasized that the cost of providing IP Relay is increasing, not decreasing. The minutes of use of the service have steadily declined for several years, and recently declined sharply, coinciding with recent regulatory changes.¹ Indeed, from July 2012 to May 2013, the monthly minutes of use dropped from 2.3 million to 1.7 million.² While there are likely several reasons for the decline, the impact on provider costs is the same: decline in use makes it more expensive to provide the service. Moreover, the costs of providing the service go beyond the costs that are reported to the Fund Administrator. For example, Purple invested substantial funds in implementing robust anti-fraud measures that far exceed the minimum standards required by federal regulations. There are also high ongoing regulatory costs associated with the service.

There are no efficiencies to be gained as minutes of use continue to decline. The record supports adjusting rates in a declining service similar to traditional text relay, which increase as the service demand decreases over time. As acknowledged by RLSA, this is a labor intensive business with the

¹ See, e.g., *Misuse of Internet Protocol (IP) Relay Service, et al.*, CG Docket No. 12-38, *et al.*, First Report and Order, 27 FCC Rcd 7866 (rel. June 29, 2012).

² See Rolka Loube Saltzer Associates (“RLSA”) Interstate TRS Fund Performance Status Report, Funding Year July 2012 – June 2013, reports for July 2012 and May 2013, available at: <http://www.r-l-s-a.com/TRS/reports/2012-07/TRSSStatus.pdf> and <http://www.r-l-s-a.com/TRS/reports/2013-05/TRSSStatus.pdf>. We note that the Fund Administrator, in projecting nearly 22 million minutes of use for the 2013-2014 Fund year, likely overstates demand. See RLSA Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123 and 10-51, Exhibits 1-3 and Exhibit 2 (May 1, 2013).

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largest provider costs being the labor cost associated with communications assistants.³ Accordingly, and as acknowledged by the Fund Administrator, the current rate of return methodology simply does not make sense in this industry, which is not capital-intensive. In addition, fixed costs remain the same, and providers are required to continue staffing levels that will allow them to comply with more stringent minimum standards. All of these factors contribute to increasing costs on a per minute basis.

It is also important to note that IP Relay is only 3% of the entire TRS Fund. As a result, based on current call volumes, maintaining a steady rate or slightly increasing it will have only a negligible (less than 0.5%) impact on the overall Fund. An aggressive rate cut, however, will have a very significant impact – likely decreasing consumer choice and potentially putting at risk the very existence of this critical service.⁴ As such, there is virtually no reward to the Fund for taking such a risk.

It is equally important to note that IP Relay serves a unique and critical purpose, as it provides accessible communications not only individuals who are deaf, but also people who are deaf-blind, have speech impairments, who do not know American Sign Language or who do not have sufficient broadband speed to use VRS.⁵ IP Relay is also frequently used by VRS users in situations where VRS is either not available or not preferred. In such situations, calls are placed through IP Relay that would otherwise be placed through the higher-cost VRS service, which results in savings to the Fund.

Purple appreciates and applauds the Commission's setting of a four-year rate for VRS (even if Purple does not necessarily agree with the longer term rates that were set for VRS), given the greater visibility that such a rate period affords providers and their investors. Having the ability to plan over

³ See RLSA Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123 and 10-51, at 23 (May 1, 2013).

⁴ Hamilton Relay and AT&T have already exited the market. See Comments of Purple Communications, Inc., CG Docket Nos. 10-51 and 03-123, at 5 (May 31, 2013).

⁵ See Letter from Monica Desai, Counsel, Purple Communications, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51 (June 26, 2013); see also Letter from Claude Stout, Executive Director, Telecommunications for the Deaf and Hard of Hearing, Inc., *et al.*, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51 (June 26, 2013). Several individual consumers also have expressed the importance of IP Relay. See, e.g., Letter from Dan Brubaker, available at: <http://apps.fcc.gov/ecfs/document/view?id=7520925354>; Letter from Tracy Stine, available at: <http://apps.fcc.gov/ecfs/document/view?id=7520925207>; Letter from Jennifer Ann Cook, available at: <http://apps.fcc.gov/ecfs/document/view?id=7520925337>.

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a longer term is beneficial for providers and for investment purposes. In the IP Relay context, Purple strongly recommends that the Commission set long-term rates while keeping in mind the steady decline in use of this vital service, and the increasing costs of providing the service.

Respectfully submitted,



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